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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CRD NO. 138425
THE COMMISSIONER OF BUSINESS)	
OVERSIGHT,)	
Complainant,)	SETTLEMENT AGREEMENT
v.)	
JMR CAPITAL MANAGEMENT, INC.,)	
Respondent.)	

This Settlement Agreement is entered between the Department of Business Oversight (Department) through the Commissioner of Business Oversight (Commissioner) on the one hand and JMR Capital Management Inc. (JMR Capital) on the other (the Parties), and is made with respect to the following:

RECITALS

A. Respondent JMR Capital Management, Inc. (JMR Capital) is a California corporation with a principal place of business located at 44 Montgomery Street, Suite 3705, San Francisco, California 94104.

B. JRM Capital is an investment adviser licensed by the Commissioner on June 14, 1994 pursuant to the Corporate Securities Law of 1968 (CSL) (Corp. Code, § 25000 et seq.).

C. Marc A. Roth is President and Chief Executive Officer of JMR Capital and, as such, is authorized to enter into this Settlement Agreement on behalf of JMR Capital.

1 D. On or about April 4, 2016, the Commissioner commenced a regulatory examination
2 (2016 examination) of JMR Capital's books and records which revealed that JMR Capital continued
3 to commit violations previously discovered during regulatory examinations in or about July 1996 and
4 February 3, 2003, including failure to maintain books and records in violation of California Code of
5 Regulations, title 10, section 260.241.3, and failure to file annual reports with the Commissioner in
6 violation of California Code of Regulations, title 10, section 260.241.2. In addition, JMR Capital
7 failed to make, keep and submit documents for the specified time required by the Commissioner in
8 violation of Financial Code section 25241.

9 E. On October 25, 2017, the Commissioner issued an Order to Discontinue Violations
10 (Order to Discontinue), Notice of Intent to Make Order Final, Statement of Facts in Support of Order
11 to Discontinue Violations Pursuant to Corporations Code Section 25249; Statement in Support of
12 Notice of Intention to Issue Order Levying Penalties Pursuant to Corporations Code Section 25252
13 and accompanying documents (collectively, Administrative Action), attached hereto as Exhibit A.

14 F. On or about October 31, 2017, JMR Capital was served the Administrative Action.
15 On or about November 29, 2017, JMR Capital requested a hearing on the Administrative Action.

16 G. JMR Capital agrees to enter into this Settlement Agreement as a resolution of the
17 Administrative Action without the need for further litigation.

18 H. The Commissioner finds this Settlement Agreement is appropriate, in the public
19 interest and consistent with the purposes fairly intended by the policy and provisions of the CSL.

20 TERMS AND CONDITIONS

21 1. Purpose. The purpose of this Settlement Agreement is to resolve the foregoing issues
22 in a manner that avoids the expense of a hearing, uncertainty of litigation and possible further court
23 proceedings.

24 2. Order to Discontinue. JMR Capital agrees to discontinue violations of Corporations
25 Code section 25241 and California Code of Regulations, title 10, sections 260.241.3 and 260.241.2
26 relating to its books and records and annual reports, and further stipulates to the finality of the Order
27 to Discontinue issued on October 25, 2017 attached as Exhibit A.

28 3. Penalties. JMR Capital shall pay a penalty to the Commissioner in the amount of

1 \$20,000.00, which shall be due within 20 calendar days of the effective date of this Settlement
2 Agreement, as such date is defined in Paragraph 16, made payable in the form of a cashier's check or
3 Automated Clearing House deposit to the "Department of Business Oversight" and transmitted to the
4 attention of: ATTN: Accounting – Litigation, at the Department of Business Oversight located at
5 1515 K Street, Suite 200, Sacramento, California 95814. Notice of all payments shall be sent to:
6 Lindsay Herrick, Counsel, Enforcement Division, Department of Business Oversight 1515 K Street,
7 Suite 200, Sacramento, California.

8 4. Waiver of Hearing Rights. JMR Capital acknowledges that the Commissioner is
9 ready, willing and able to proceed with the hearing in this matter, and JMR Capital hereby waives the
10 right to a hearing, and to any reconsideration, appeal, or other right to review which may be afforded
11 pursuant to the CSL, the California Administrative Procedure Act, the California Code of Civil
12 Procedure, or any other provision of law; and by waiving such rights, JMR Capital effectively
13 consents to this Settlement Agreement becoming final.

14 5. Failure to Comply with Settlement Agreement. JMR Capital agrees that if it fails to
15 meet any requirement of Paragraph 3 above, the license of JMR Capital shall be summarily
16 suspended, and that an order levying penalties in the amount of \$30,000.00 as specified in Exhibit A
17 shall be issued and become final. JMR Capital hereby waives any notice and hearing right to contest
18 the immediate suspension of its license and finality of said orders which may be afforded under the
19 CSL, the California Administrative Procedures Act, the California Code of Civil Procedure or any
20 other law.

21 6. Future Actions by the Commissioner. The Parties acknowledge and agree that nothing
22 contained in this Settlement Agreement shall operate to limit the Commissioner's ability to assist any
23 other agency, (county, state or federal) with any prosecution, administrative, civil or criminal,
24 brought by any such agency against JMR Capital based upon the subject matter hereof or otherwise.
25 This Settlement Agreement shall not limit the ability of the Commissioner to bring any administrative
26 or civil action to enforce compliance with this Settlement Agreement or to seek penalties for its
27 violation. Further, the Commissioner reserves the right to bring any future action(s) against JMR
28 Capital or any of the managers, officers, directors, shareholders or employees of JMR Capital for all

1 unknown or future violations of the CSL.

2 7. Independent Legal Advice. JMR Capital represents, warrants, and agrees that it has
3 had the opportunity to seek independent advice from legal counsel and/or representative with respect
4 to the advisability of executing this Settlement Agreement.

5 8. No Other Representation. Each of the Parties represents, warrants, and agrees that in
6 executing this Settlement Agreement each has relied solely on the statements set forth herein and the
7 advice of its own counsel and/or representative. Each of the Parties further represents, warrants, and
8 agrees that in executing this Settlement Agreement it has placed no reliance on any statement,
9 representation, or promise of any other party, or any other person or entity not expressly set forth
10 herein, or upon the failure of any party or any other person or entity to make any statement,
11 representation or disclosure of anything whatsoever. The Parties have included this clause: (1) to
12 preclude any claim that any party was in any way fraudulently induced to execute this Settlement
13 Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or
14 contradict the terms of this Settlement Agreement.

15 9. Modifications and Qualified Integration. No amendment, change or modification to
16 this Settlement Agreement shall be valid or binding to any extent unless it is in writing and signed by
17 all the Parties affected by it.

18 10. Full Integration. This Settlement Agreement is the final written expression and the
19 complete and exclusive statement of all the agreements, conditions, promises, representations, and
20 covenants between the Parties with respect to the subject matter hereof, and supersedes all prior or
21 contemporaneous agreements, negotiations, representations, understandings, and discussions between
22 and among the Parties, their respective representatives, and any other person or entity, with respect to
23 the subject matter covered hereby.

24 11. No Presumption from Drafting. In that the Parties have had the opportunity to draft,
25 review and edit the language of this Settlement Agreement, no presumption for or against any party
26 arising out of drafting all or any part of this Settlement Agreement will be applied in any action
27 relating to, connected, to, or involving this Settlement Agreement. Accordingly, the Parties waive the
28 benefit of Civil Code section 1654 and any successor or amended statute, providing that in cases of

1 uncertainty, language of a contract should be interpreted most strongly against the party who caused
2 the uncertainty to exist.

3 12. Terms, Headings and Governing Law. All terms used, but not defined herein, shall
4 have the meaning assigned to them by the CSL. The headings to the paragraphs of this Settlement
5 Agreement are inserted for convenience only and will not be deemed a part hereof or affect the
6 construction or interpretation of the provisions hereof. This Settlement Agreement shall be construed
7 and enforced in accordance with, and governed by, the laws of the State of California.

8 13. Authority for Settlement. Each party warrants and represents that such party is fully
9 entitled and duly authorized to enter and deliver this Settlement Agreement. In particular, and
10 without limiting the generality of the foregoing, each party warrants and represents that it is fully
11 entitled to enter the covenants, and undertake the obligations set forth herein.

12 14. Public Record. JMR Capital acknowledges that this Settlement Agreement is a public
13 record. JMR Capital further understands and agrees to not make any statement or representation that
14 is inconsistent with the Settlement Agreement.

15 15. Voluntary Agreement. The Parties each represent and acknowledge that in executing
16 this Settlement Agreement, each does so completely voluntarily and without any duress or undue
17 influence of any kind from any source.

18 16. Effective Date: This Settlement Agreement shall become effective when executed by
19 the Commissioner or her designee and transmitted by electronic mail (email) to JMR Capital at
20 mroth@jmrcap.com.

21 Dated: 1/12/18 JAN LYNN OWEN
22 Commissioner of Business Oversight

23 By: _____
24 MARY ANN SMITH
25 Deputy Commissioner
26 Enforcement Division

27 Dated: 1/11/18 JMR CAPITAL MANAGEMENT, INC.

28 By: _____
MARC A. ROTH
President and Chief Executive Officer

EXHIBIT A

MARY ANN SMITH
Deputy Commissioner
MIRANDA LEKANDER
Assistant Chief Counsel
LINDSAY B. HERRICK (State Bar No. 224986)
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In the Matter of:)	CRD NO. 138425
)	
THE COMMISSIONER OF BUSINESS)	
OVERSIGHT,)	
)	ORDER TO DISCONTINUE VIOLATIONS
Complainant,)	PURSUANT TO CORPORATIONS CODE
)	SECTION 25249
v.)	
)	
JMR CAPITAL MANAGEMENT, INC.,)	
)	
Respondent.)	

TO: JMR Capital Management, Inc.
44 Montgomery Street, Suite 3705
San Francisco, California 94101

The Commissioner of Business Oversight finds that:

JMR Capital Management, Inc. has:

(1) Failed to make, keep and submit a general ledger and cash reconciliations in violation
of Corporations Code section 25241, subdivision (a);

///

(2) Failed to maintain a general ledger, balance sheet and income statements in violation

- 1 of California Code of Regulations, title 10, section 260.241.3; and,
2 (3) Failed to timely submit annual reports in violation of California Code of Regulations,
3 title 10, section 260.241.2.
4

5 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING, it is hereby
6 ORDERED under the provisions of Corporations Code section 25249, that JMR Capital
7 Management, Inc. immediately discontinue the violations set forth above.

8 Dated: October 25, 2017
9 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

11 By _____
12 Mary Ann Smith
13 Deputy Commissioner
14 Enforcement Division
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